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of the declaration, the pleadings seem to indicate that the contrary view was taken at common law, and there are some expressions in the cases to the same effect, *Reade v. Lamb* (1851), 6 Exch. 129; yet, so far as substantive law is concerned, there is nothing to indicate that it was a real defence. In fact, the cases seem to hold that it cannot be taken advantage of by interested third parties. *Dawson v. Ellis* (Eng. 1820), 1 J. & W. 524. So in the jurisdictions of the principal cases there seems to be the same inconsistency, for where the rights of a third party were concerned, the courts have treated the defence as purely personal. *Dixon v. Duke* (1882) 85 Ind. 434; *Rickards v. Cunningham* (1880) 10 Neb. 417. In England and in most American jurisdictions the pleadings are in the main brought into conformity with the substantive law in refusing to allow advantage to be taken of non compliance with the Statute under a general denial. *Crane v. Powell* (1893), 139 N. Y. 379; *Wolf v. Booker* (1901), 97 Ill. App. 139; *Smith v. Pritchett* (1893) 98 Ala. 649; *City v. Manufacturing Co.* (1893) 93 Tenn. 276. But even in some of these jurisdictions there is a trace of the influence of the common law pleading in the inconsistency of allowing the demurrer where the defect appears on the face of the complaint. Dictum in *Crane v. Powell*, *supra*; *Elliott v. Fenness* (1872), 111 Mass. 29; *Dicken v. McKinley* (1896) 163 Ill. 318; *Strouce v. Elting* (1895) 110 Ala. 132.

RIGHT OF A COMMON CARRIER TO INSIST UPON THE OBSERVANCE OF REGULATIONS.—It is well settled in the law of common carriers that a passenger must conform to the reasonable regulations of the carrier and if they are disobeyed the carrier is justified in ejecting one who so disobeys them. *Graville v. R. R.* (1887) 105 N. Y. 525; Hutch. on Carriers § 587 et seq. Such regulations, as for example that requiring the purchase of a ticket or the payment of excess fare, often present to the passenger alternatives, the second of which in effect imposes a penalty for a failure to accept the first. A difficult question arises when acceptance of the first alternative is rendered impossible through fault of an agent of the carrier. The question then is whether or not the passenger is justified in refusing to conform to the second alternative of the regulation and whether, if ejected, he may recover damages for such ejection. It is every where admitted that he may recover in contract or quasi-contract. Such a situation is most apt to arise under one of the three following situations—(a) where the regulation is that extra fare shall be paid if the passenger has no ticket and he is without a ticket because the ticket office was closed or through some other default of the carrier; or (b) where the regulation is that a passenger shall have a correct ticket or pay fare, and the agent issues a ticket the invalidity of which could not be discovered by reasonable examination on the part of the passenger; or (c) where the agent issues a ticket which is invalid on its face. In the third case there seems to be good ground for holding that the passenger

must obey the regulation, for the ticket was void on its face and the passenger should, in the exercise of reasonable care have noticed the mistake and have had it corrected. *Garrison v. United Railways Co.* (Md. 1903) 55 Atl. 371. Some jurisdictions hold, however, that even under such circumstances the regulation need not be obeyed. *R. R. v. Dougherty* (1890) 86 Ga. 744. In the first two cases it seems difficult on principle to justify any holding other than that the passenger should not be obliged to obey that alternative of the regulation which imposes a penalty, when the carrier has by the act of its agent made it impossible for him to comply with the other alternative of the regulation. Under such a state of facts the regulation as respects that particular passenger would be unreasonable and in determining his rights a regulation should, on principle, be held reasonable or unreasonable when considered in the light of a specific case rather than as detached from particular circumstances. And this is the rule in many jurisdictions. *R. R. v. Wilson* (Ind. 1903) 66 N. E. 950; *Hayter v. Traction Co.* (1901) 66 N. J. L. 575.

The cases which hold that the carrier is entitled to enforce its regulation, even though itself in fault, go on the theory that the contrary rule is impracticable and a direct invitation to fraud. A recent New York case rests its decision on this broad ground of policy. *Monnier v. N. Y. C. R. R.* (1903) 175 N. Y. 281. It may be objected that this rule, besides its weakness on principle, tends to make the carrier arbitrary in the enforcement of its regulations. Further, that though the passenger has an action if he is subjected to the penalty of the regulation through the carrier's fault, it is one that he would so rarely resort to that the carrier would usually actually profit by its own wrong. But the stronger considerations of policy seem to support the New York view. By the contrary rule the conductor would be obliged to take the passenger's word as to a mistake or run the risk of subjecting the carrier to the payment of substantial damages and this would open a large field for fraud. Again if the carrier has the right to enforce rigidly a regulation which only becomes unreasonable in an exceptional case larger facilities can be afforded to the public than would otherwise be possible. Finally it would seem for the best interests of the public that a rule easy of comprehension and application should be adopted and it is certainly for public comfort that a disputed point should be argued and decided in court and not by conductor and passenger in a crowded car.

RIGHT OF SECOND MORTGAGEE TO MAINTAIN TROVER.—Upon default in payment of the sum secured, the title of the mortgagee of chattels becomes absolute in law and his right to possession perfect. Thereafter, the mortgagor, or anyone holding his title, has but an equitable right of redemption, *Brown v. Bement* (1811) 8 Johns. 96; *Judson v. Eaton* (1874) 58 N. Y. 664; *Kimball v. F. & M. Nat'l Bank* (1893) 138 N. Y. 500, which right can be enforced only